

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

JOHN LEE BELL,)	
)	
Petitioner,)	
vs.)	NO. CIV-05-0676-HE
)	
DAVID C. MILLER,)	
)	
Respondent.)	

ORDER

Petitioner John Lee Bell instituted this action under 28 U.S.C. § 2254 seeking habeas relief. Consistent with 28 U.S.C. § 636(b)(1)(B), the matter was referred to Magistrate Judge Doyle W. Argo, who has issued his Report and Recommendation suggesting that the action be dismissed without prejudice because the petitioner failed to comply with his order to pay the \$5.00 filing fee or submit a completed application to proceed *in forma pauperis* by July 5, 2005.¹ Although the petitioner was advised that failure to comply with the order could result in the dismissal of the action, he did not make the payment, request an extension of time within which to comply with the magistrate judge's order or demonstrate cause for his failure to comply. The petitioner also failed to object to the Report and Recommendation and, therefore, waived his right to appellate review of the factual and legal issues it addressed. United States v. One Parcel of Real Property, 73 F.3d 1057, 1059-60 (10th Cir. 1996), *cert. denied*, 519 U.S. 909 (1996). See 28 U.S.C. § 636(b)(1)(C); LCvR72.1(a).

Accordingly, the court adopts Magistrate Judge Argo's Report and Recommendation and dismiss the petition for writ of habeas corpus without prejudice.

¹*In his June 15, 2005, order the magistrate judge also advised the petitioner that, because he was attempting to attack a conviction entered in state court located in the Northern District of Oklahoma, he might choose to refile this action in that district, rather than pay the filing fee in this court. The magistrate judge noted that it is a long standing policy of this court and the U.S. District Court for the Northern District of Oklahoma that habeas petitions be adjudicated in the district where the conviction was entered.*

IT IS SO ORDERED.

Dated this 16th day of August, 2005.



JOE HEATON
UNITED STATES DISTRICT JUDGE